

General

1. How, if at all, does the process for cleaning up a contaminated site under CERCLA differ when the site is located on a tribe's land vs. when it is near a tribe's land?

Data

2. We will want to obtain data on all active and archived sites that are on or near Native American/Tribal lands. Specifically, we are interested in data that shows for each site: Whether the site is active or archived; relevant IDs and location information; NPL or non-NPL status; clean-up status; Indian entity; superfund alternative approach flag; any outcome measures tracked; and federal agency.

We were able to pull 402 active CERCLA sites with "Native American interests" from the SEMS Public Access Database; however, the public access database did not allow for downloading as an excel file (yields a 404 error). Would this data pull provide us with the information identified above? If so, would you be able to download it into excel for us?

- a. If it is determined that a SEMS data pull will meet our request, can you also please provide any relevant data dictionaries or guides for the data?
3. How do you define "Native American interest" in your SEMS data? Please explain how this definition differs from or overlaps with other commonly used definitions, such as "on or near" tribal lands, Indian Country, or Indian Reservation?
 4. The public access database search page mentions EPA's transition from CERCLIS to SEMS. Is this transition complete, or still ongoing?
 - a. If the transition is still ongoing, what is its current status and when is it expected to be complete?

Consultation

May 2011 Policy on Consultation and Coordination with Indian Tribes

5. Is the May 2011 Policy on Consultation and Coordination with Indian Tribes the most up-to-date version of the policy? If not, please provide us with the most current revision.
6. The policy requires "formal, written communication" to tribes on how their input was considered in the final action – once tribes receive this follow-up, is there any process for tribal leaders to appeal or dissent?
 - a. Is this communication publicly accessible? If so, where can we find examples? If not, can you please provide us with an example?
7. The policy says that "consultation should occur early enough to allow tribes the opportunity to provide meaningful input that can be considered prior to EPA deciding whether, how, or when to act on the matter under consideration." How is "early enough" determined and by whom?
8. The policy designates the "designated consultation official" to evaluate the adequacy of the consultation – what criteria are used to determine adequacy?
9. How does this policy apply to areas run by Alaska Native corporations?

Other Consultation Documents

10. According to a February 2016 document titled, “EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights,” the new policy’s purpose was to enhance EPA’s consultations under the May 2011 Policy in situations where tribal treaty rights may be affected by a proposed EPA action. Please elaborate on the relationship between the 2016 and 2011 documents, and how the new policy has affected the tribal consultation process.
11. A January 17, 2017 memo on tribal treaty rights and traditional ecological knowledge references a memo on “Considering Traditional Ecological Knowledge during the Cleanup Process” issued by Office of Land and Emergency Management. Please provide us a copy of this memo.
 - a. How is traditional ecological knowledge (TEK) developed and defined?

Consultation-General

12. What, if any, consultation with Tribal officials occurs in cases of CERCLA actions near, but not on, tribal land?
 - a. If consultation occurs in cases of CERCLA actions near tribal land, please describe how the relevant proximity measure is determined (e.g., how close is close enough for consultation).
13. How, if at all, have tribal consultation policies been shaped by previous interactions with tribes in relation to CERCLA activities?
14. EPA’s website details many national and regional Tribal Partnership Groups – How do these groups communicate with the program office that assesses whether consultation with tribes is appropriate?
15. Beyond the documents noted here, are there any other policy or guidance documents that govern consultation with tribes in relation to CERCLA activities?

Determining the extent to which actions have addressed contamination

16. How does EPA’s metric of Sitewide Ready for Anticipated Use (SWRAU) determine the reasonably anticipated future land uses? To what extent are subsistence fishing and gathering considered in application of this performance metric?
17. To what extent are tribal leaders consulted when measuring performance of Superfund sites through SWRAU or Cross Program Revitalization Measure (CPRM)?
18. We were able to find EPA data on SWRAU Superfund Sites, but were unable to sort for those sites with Native American Interests. Can you provide data on outcome measures for *only* CERCLA actions with Native American interests and/or on tribal land?

Other

19. In making clean-up decisions, how are tribal lifestyles—such as reliance on subsistence fishing or farming—taken into account?
20. Can you explain the difference between CERCLA clean-up and other federal environmental clean-up programs affecting tribes (such as DOD’s Native American Lands Environmental Mitigation Program)?
21. Are there other offices or agencies that you recommend we contact—either because they are involved in the process or because they manage a relatively large number of CERCLA clean-up sites on or near tribal land?
22. Are there specific tribes you recommend we contact or specific CERCLA actions you recommend we study?
23. Please walk us through the process of using the Hazard Ranking System on potential Superfund sites and how the results are used to prioritize sites.
24. Because Hazard Ranking System (HRS) criteria include consideration for population exposure, but tribal lands may be more sparsely populated, are tribal areas less likely to be eligible for the National Priorities List?
25. Do any tribes other than the Quapaw Tribe have cooperative agreements with EPA to handle CERCLA response activity?